# HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

**CWP No. : 1550 of 2007.**
**Decided on: 17.12.2007.**

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Rachna Sharma ..... Petitioner.

Versus

H.P. Board of School Education .....Respondent.

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*Coram:*

The Hon'ble Mr.Justice Deepak Gupta, Judge.
The Hon'ble Mr.Justice V.K. Ahuja, Judge.

Whether approved for reporting? No.

For the petitioner: Mr.R.K. Bawa, Senior Advocate, with Mr.Inder Jit Singh, Advocate.

For the respondent: Mr.Lovneesh Kanwar, Advocate.

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**Deepak Gupta, J (Oral):**

The petitioner, by means of this writ petition, has prayed that she should be treated as compartment candidate in the ensuing matriculation examination and should not be compelled to appear in all the subjects.

The factual matrix is that the petitioner appeared in the matriculation examination conducted by the H.P. Board of School Education (here-in-after referred to as the Board) till March, 2005. She failed in the subject of Mathematics, though she had cleared other subjects and was placed under compartment category. Thereafter, she twice availed the chances in September, 2005 and March, 2006 as compartment candidate, but could not clear the examination in the subject of Mathematics and was declared to be failed. As a result, she had now to appear in all the subjects.

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Whether reporters of local newspapers may be allowed to see the judgment? Yes.

In the meantime, the Board took a decision to change the syllabi of Matric class. Some persons, who had studied under the old syllabus, claimed that they be given another chance under the old syllabus. The Board acceded to their request and vide letter dated 30th May, 2006 gave one more chance of clearing the examination under the old syllabus. The relevant portion of the letter reads as follows:

> *"The candidates who have been declared fail in Matric class in March, 2006 under old syllabus shall appear in March, 2007 examination as private candidate(s) as their last chance and they shall only be declared fail or pass no Compartment chance shall be given further and thereafter, they shall appear in any subsequent annual examination of the Board as regular or in the capacity of private candidate(s), if otherwise eligible, under the syllabi and courses of study that would be applicable at the time of their taking the examination."*

The petitioner appeared in all the subjects. She again failed in the subject of Mathematics and was declared failed in terms of the letter quoted here-in-above. Though the examination in March was to be the last chance, it appears that further representation was made and the Board, vide Annexure P-5, again permitted the students to appear afresh in December/March examination under the old syllabi. The notification, dated 2.8.2007, reads as follows:

> *"On the recommendations of the Examination Committee, the Board in its 89th meeting held on 28.6.2007 under Item No.18(6), approved one more special chance to the failed candidates of March, 2007 (Old Regulations) of Matriculation and +2 classes in December, 2007 and March, 2008 alongwith the candidates of winter and summer closing schools in selected centres in each district, keeping in view the situation and student strength. The Board further approved that the status of category in which a candidate had appeared in March, 2007 Examination shall remain un-changed. A candidate who had appeared in one subject as compartment candidate shall take his/her examination in the same subject, while a candidate who had appeared in full subjects shall appear in full subjects in the forthcoming December, 2007 (winter closing) and March, 2008 annual examinations."*

Mr.R.K. Bawa, learned Senior Advocate, appearing for the petitioner, has contended that the conditions in letter, dated 30th May, 2006, should not be applied since those conditions have been incorporated under the clear cut impression that the examination to be held in March, 2007 would be the last examination under the old syllabus. He urges that since another examination is now being held in terms of notification, dated 2.8.2007, under the old syllabi, the candidates like the petitioner, who have failed in one subject should, as per the rules, be permitted to appear as compartment candidates and should be required to pass in that subject.

We are not in agreement with this contention. It is pertinent to mention that if the Board had not given special chance on 30th May, 2006, the petitioner would have to appear as a new candidate under the new syllabi. She was given an extra chance to appear under the old syllabi in which it was clearly stated that the result shall only be pass or fail and no compartments would be issued. The notification, dated 2.8.2007, is only an extension of the letter, dated 30th May, 2006. It is for the candidate to choose whether he/she wants to study under the new syllabi in which case he/she could avail the benefit of compartment. If the candidate insists on having the extra chance, then he/she has to comply with the conditions laid down by the Board.

We, therefore, find no merit in the writ petition, which is accordingly dismissed.

**CMP No.2494 of 2007:**

Infructuous.

**(Deepak Gupta), J.**

**(V.K. Ahuja), J.**

**December 17, 2007.** (TILAK)